

JS 44 (Rev. 10/20)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Raina Pettway Apt. 213, 3633 Highway 33, Neptune, NJ 07753</p> <p>(b) County of Residence of First Listed Plaintiff <u>Monmouth County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Coffey Kaye Myers & Olley Robert E. Myers, Esquire/Michael J. Olley, Esquire Lawrence A. Katz, Esquire</p>	<p>DEFENDANTS New Jersey Transit Rail Operations, Inc.</p> <p>County of Residence of First Listed Defendant <u>Essex</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (<i>If Known</i>)</p>																				
<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;"><input type="checkbox"/> 1 U.S. Government Plaintiff</td> <td style="width: 50%;"><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></td> </tr> <tr> <td><input type="checkbox"/> 2 U.S. Government Defendant</td> <td><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></td> </tr> </table>		<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i>	<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i>																
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<p>Cite the U.S. Civil Statute under which you are filing <i>(Do not cite jurisdictional statutes unless diversity)</i>: Federal Employers' Liability Act 45, U.S.C. Section 51, et seq.</p>																					
<p>VI. CAUSE OF ACTION Brief description of cause: Plaintiff sustained personal injuries during her employment with New Jersey Transit on April 28, 2019</p>																					
<p>VII. REQUESTED IN COMPLAINT: <input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.</p>		DEMAND \$ Excess of \$150,000.00	<p>CHECK YES only if demanded in complaint: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>JURY DEMAND: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p>																		
<p>VIII. RELATED CASE(S) IF ANY <i>(See instructions)</i></p>		JUDGE 	DOCKET NUMBER _____																		
DATE	SIGNATURE OF ATTORNEY OR RECORD 																				
FOR OFFICE USE ONLY		RECEIPT # _____	AMOUNT _____	APPLYING IFFP _____																	
		JUDGE _____	MAG. JUDGE _____																		

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) **Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) **County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) **Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. **Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: **federal question actions take precedence over diversity cases.**)
- III. **Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. **Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. **Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. **Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. **Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. **Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

RAINA PETTWAY

3633 Highway 33, Apt 215
Neptune, NJ 07753

Plaintiff

**NEW JERSEY TRANSIT RAIL
OPERATIONS, INC.**
One Penn Plaza East
Newark, NJ 07105

Defendant

CIVIL ACTION

NO.:

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

1. The plaintiff herein is Raina Pettway, a citizen and resident of the State of New Jersey, residing therein at Apartment 215, 3633 Highway 33, Neptune, NJ 07753.

2. The defendant is a corporation duly organized and existing under and by virtue of the laws of the State of New Jersey.

3. This action arises under the Act of Congress, April 22, 1908, c. 149, 35 Stat. 65, and amendments thereto, U.S.C.A. Title 45, §51 et seq., and further amended by the Act of Congress, approved by the President of the United States on August 11, 1939, Chapter 685 - First Session of the 76th Congress, known and cited as "The Federal Employers' Liability Act".

4. At the time and place hereinafter mentioned and for a long time prior thereto, the defendant, as a common carrier, operated trains carrying passengers, freight, express packages, baggage and foreign and domestic mail, in commerce, between the different states of the United States and its territories.

5. At the time and place hereinafter mentioned, the acts of omission and commission, causing the injuries to the plaintiff, were done by the defendant, its agents, servants, workmen and/or

employees, acting in the course and scope of their employment with and under the control of the defendant.

6. At the time and place hereinafter mentioned, the plaintiff and the defendant were engaged in interstate commerce between the different states of the United States and its territories.

7. All of the property, equipment and operations involved in the incident herein referred to were owned by and under the control of the defendant, its agents, servants, workmen and/or employees.

8. As a result of the incident herein referred to, plaintiff has suffered a loss and impairment of earnings and earning power and may suffer the same for an indefinite time in the future; has undergone great physical pain and mental anguish and may undergo the same for an indefinite time in the future; has been obliged to and may have to continue to expend large sums of money in the future in an effort to effect a cure of her injuries; has been unable to attend to her usual duties and occupation and may be unable to attend to the same for an indefinite time in the future, all to her great detriment and loss.

9. The incident herein referred to was caused solely and exclusively by the negligence of the defendant, its agents, servants, workmen and/or employees, and was due in no manner whatsoever to any act or failure to act on the part of the plaintiff.

10. On or before the date of this incident, the defendant knew, and/or should have known, that its train crews were frequently harassed, assaulted, spit upon, cursed at, and subjected to similar aggressive, belligerent, and dangerous behavior by passengers while the train crew attempted to collect fares and enforce company rules.

11. Despite a long history of train crews being assaulted by passengers while the train crews attempted to collect fares; the train crews continued to be harassed, assaulted, spit upon,

cursed at, and subjected to similar aggressive, belligerent, and dangerous behavior by passengers while the train crews attempted to collect fares and enforce company rules. The defendant failed to provide necessary police and/or other security on the trains, platforms, and other rail facilities where the train crews were required to work.

12. At all times prior to the incident involved in this litigation, conductors, rear brakeman, ticket collectors and other train crews reported to the defendant the aforementioned harassment, abuse, and assaults by passengers while the train crews were attempting to collect fares and enforce company rules and previously requested that the defendant provide them with police and/other protection, but New Jersey Transit has consistently refused to do so.

13. On or about April 28, 2019, plaintiff was working as a conductor on a passenger train, travelling from Newark to Elizabeth, New Jersey.

14. While the train was coming out of the Newark Station, plaintiff encountered a passenger who refused to pay the fare at which time the plaintiff told the passenger that they would have to get off at Elizabeth Station.

15. As the train was approaching Linden, New Jersey, the plaintiff encountered the same passenger again who was still on the train, at which point the plaintiff contacted the head conductor on the train and reported the problem passenger.

16. Upon information and belief, the head conductor contacted the engineer who in turn contacted New Jersey Transit Police at approximately 11:46 p.m., the night before the incident.

17. As the train then arrived at Rahway Station, the same passenger pulled out a knife and lunged at the plaintiff, causing plaintiff to fall and to sustain the injuries described below.

18. The negligence of the defendant consisted of its failure to remove the dangerous passenger from the train and the failure of its police force to immediately respond to the report of the

dangerous passenger and to remove that passenger from the train.

19. The negligence of the defendant further consisted of the following:

- (a) Failing to provide plaintiff with necessary protection from physical assaults by rail passengers;
- (b) Failing to provide sufficient uniformed and/or non-uniformed police and security personnel on the subject train;
- (c) Failing to provide plaintiff with necessary training on how to approach a situation such as that encountered by the plaintiff in this incident;
- (d) Failing to provide the plaintiff with self-defense training;
- (e) Failing to properly allocate police and security resources to protect the plaintiff;
- (f) Failing to provide the plaintiff with self-defense weapons, including but not limited to mace, pepper spray, Tasers, and similar devices;
- (g) Failing to have sufficient personnel on the train to protect the plaintiff;
- (h) Requiring plaintiff to work on a train that contained no police or security; and
- (i) Failing to warn the plaintiff of these dangerous conditions.

20. The aforesaid incident was caused by the negligence of the defendant, its agents, servants, workmen and/or employees and by the defendant's violation of the Federal Employers' Liability Act and was due in no manner whatsoever to any act or failure to act on the part of the plaintiff.

21. As a result of the aforesaid incident, plaintiff sustained injuries to her back, knees and Achilles tendon. Specifically, plaintiff sustained torn cartilage and ligaments in her left ankle requiring surgical repair. The full extent of plaintiff's injuries is not presently known and may be permanent.

WHEREFORE, plaintiff claims of the defendant, a sum in excess of One Hundred Fifty Thousand (\$150,000.00) Dollars.

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